

CITY OF SUNNYVALE

and

**SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 715
(Bargaining Unit #4)**

MEMORANDUM OF AGREEMENT

February 1, 2001 to June 30, 2005

TABLE OF CONTENTS

Article	Page
Article 1 - Recognition	1
Article 2 - Ratification.....	1
Article 3 - Term	1
Article 4 - Full Understanding, Modifications, and Waivers.....	1
Article 5 - Severability (Savings Clause)	2
Article 6 - Renegotiations	2
Article 7 - Release Time.....	3
Article 8 - Openers	3
Article 9 - City Rights	3
Article 10 - Ordinances, Codes, and Resolutions	4
Article 11 - Civil Service Rules and Regulations	4
Article 12 - Non-Discrimination.....	4
Article 13 - Americans with Disabilities Act (ADA).....	4
Article 14 - MOA Disputes	5
Article 15 - Authorized Agents	5
Article 16 - Union Access.....	5
Article 17 - Stewards	6
Article 18 - Release Time When Meeting with the City.....	7
Article 19 - Agency Shop.....	7
Article 20 - Grievance Procedure.....	10
Article 21 - Employee Selection.....	15
Article 22 - Probationary Period.....	15
Article 23 - Minimum/Maximum Hours	15
Article 24 - Reduction in Force	16
Article 25 - Pay Basis	17
Article 26 - Wages	17
Article 27 - Salary Ranges	22
Article 28 - Merit Increases	22
Article 29 - Achievement Plans/Audits.....	22
Article 30 - Other Pay.....	23
Article 31 - Translator/Bilingual Pay.....	24
Article 32 - Tuition Reimbursement.....	24
Article 33 - Training Assistance.....	24

TABLE OF CONTENTS (continued)

Article	Page
Article 34 - Safety Shoes.....	25
Article 35 - PERS	25
Article 36 - Federal Mandates/Social Security	26
Article 37 - Medicare	27
Article 38 - Insurance	27
Article 39 - State Disability Insurance (SDI)	28
Article 40 - Unemployment Insurance.....	28
Article 41 - Paid Leave	29
Article 42 - Bereavement Leave	29
Article 43 - Citywide Employee Emergency Relief Fund	29
Article 44 - Benefits While on Leave Due to Disability/Maternity Leave	30
Article 45 - Jury Duty	31
Article 46 - Substitutes.....	31
Article 47 - Holiday/Short term Absences/Long Term Absences	32
Article 48 - Reclassification	32
Article 49 - Testing for City Vacancies	33
Article 50 - Selection Appeal Procedure	33
Article 51 - Deferred Compensation.....	34
Article 52 - Credit Union Paycheck Deduction	35
Article 53 - Employee Tools	35
Article 54 - Rest Periods	35
Article 55 - Self-Directed Work Teams.....	35
Article 56 - Union/Management Joint Resolution Meetings.....	35
Article 57 - Citywide Committees.....	36
Article 58 - Employee Roster	36
Article 59 - Personnel Files.....	37
Article 60 - Bulletin Boards.....	37
Article 61 - Printing Costs	38
Signature Page	39
APPENDIX A	
APPENDIX B	

TABLE OF CONTENTS - ALPHABETICAL

Article	Page
Article 29 - Achievement Plans/Audits.....	22
Article 19 - Agency Shop.....	7
Article 13 - Americans with Disabilities Act (ADA).....	4
Article 15 - Authorized Agents	5
Article 44 - Benefits While on Leave Due to Disability/Maternity Leave	30
Article 42 - Bereavement Leave	29
Article 60 - Bulletin Boards.....	37
Article 9 - City Rights	3
Article 43 - Citywide Employee Emergency Relief Fund	29
Article 57 - Citywide Committees.....	36
Article 11 - Civil Service Rules and Regulations	4
Article 52 - Credit Union Paycheck Deduction	35
Article 51 - Deferred Compensation.....	34
Article 58 - Employee Roster.....	36
Article 21 - Employee Selection.....	15
Article 53 - Employee Tools	35
Article 36 - Federal Mandates/Social Security.....	26
Article 4 - Full Understanding, Modifications, and Waivers.....	1
Article 20 - Grievance Procedure.....	10
Article 47 - Holiday/Short term Absences/Long Term Absences	32
Article 38 - Insurance	27
Article 45 - Jury Duty	31
Article 37 - Medicare	27
Article 28 - Merit Increases	22
Article 23 - Minimum/Maximum Hours	15
Article 14 - MOA Disputes	5
Article 12 - Non-Discrimination.....	4
Article 8 - Openers	3
Article 10 - Ordinances, Codes, and Resolutions	4
Article 30 - Other Pay.....	23

TABLE OF CONTENTS – ALPHABETICAL (continued)

Article	Page
Article 41 - Paid Leave	29
Article 25 - Pay Basis	17
Article 35 - PERS	25
Article 59 - Personnel Files	37
Article 61 - Printing Costs	38
Article 22 - Probationary Period.....	15
Article 2 - Ratification.....	1
Article 48 - Reclassification	32
Article 1 - Recognition	1
Article 24 - Reduction in Force	16
Article 7 - Release Time	3
Article 18 - Release Time When Meeting with the City.....	7
Article 6 - Renegotiations	2
Article 54 - Rest Periods	35
Article 34 - Safety Shoes.....	25
Article 27 - Salary Ranges	22
Article 50 - Selection Appeal Procedure.....	33
Article 55 - Self-Directed Work Teams.....	35
Article 5 - Severability (Savings Clause)	2
Article 39 - State Disability Insurance (SDI)	28
Article 17 - Stewards	6
Article 46 - Substitutes.....	31
Article 3 - Term	1
Article 49 - Testing for City Vacancies	33
Article 33 - Training Assistance.....	24
Article 31 - Translator/Bilingual Pay	24
Article 32 - Tuition Reimbursement.....	24
Article 40 - Unemployment Insurance.....	28
Article 16 - Union Access.....	5
Article 56 - Union/Management Joint Resolution Meetings.....	35
Article 26 - Wages	17

**CITY OF SUNNYVALE
and
BARGAINING UNIT #4
Service Employees International Union, Local 715**

MEMORANDUM OF AGREEMENT

Article 1 - RECOGNITION

- 1.1 Service Employees International Union, Local 715, AFL-CIO (hereafter, "Union") is hereby recognized as the Exclusive Representative of City Employees in Bargaining Unit #4 (hereafter, "Unit"). The term "employees" as used herein refers to those employees regularly scheduled to work a minimum of 1,092 hours to a maximum of 1,716 hours per fiscal year and occupying the classifications as currently listed in Appendix A, or as may be modified by mutual agreement of the Parties during the term of this Memorandum of Agreement (hereafter, "Agreement").
- 1.2 If the City develops a new classification, it shall make an initial determination as to the unit placement of that classification.
- 1.3 The City shall notify the Union of the development of a new classification and the City's initial unit placement, and, upon written request from the Union within ten (10) working days of the City's notice, shall consult with the Union concerning the unit placement of the new classification.

Article 2 - RATIFICATION

- 2.1 The provisions of this Agreement are of no force or effect until ratified by the Union and duly adopted by the City Council of the City of Sunnyvale.

Article 3 - TERM

- 3.1 The term of this Agreement shall be from February 1, 2001 through and including June 30, 2005.

Article 4 - FULL UNDERSTANDING, MODIFICATIONS, AND WAIVERS

- 4.1 This Agreement sets forth the full and entire agreement of the parties regarding the matters set forth herein, and any other prior or existing understanding or agreements over these matters between parties, whether formal or informal, are hereby superseded or terminated in their entirety.

- 4.2 It is agreed and understood that, except as set forth herein, each party hereto voluntarily and unqualifiedly waives its right to negotiate, and agrees that the other party shall not be required to negotiate with respect to any subject or matter covered herein or with respect to any other matters within the scope of representation, during the term of this Agreement.
- 4.3 No agreement, alteration, understanding, variation, waiver, or modification of any of the terms or provisions contained herein shall in any manner be binding upon the parties hereto unless made and executed by all parties hereto, and if required, approved by the City and ratified by the Membership of the Union.
- 4.4 The waiver of any breach, term or condition of this Agreement by either party shall not constitute a precedent in the future enforcement of all its terms and provisions.

Article 5 - SEVERABILITY (SAVINGS CLAUSE)

- 5.1 In the event any provision of this Agreement is declared invalid or unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall remain in full force and effect.
- 5.2 If a provision is declared invalid or unenforceable as provided in Section 7.1 above, then at the written request of either Party submitted to the other within ten (10) working days of such action by the court, the Parties shall meet promptly to negotiate the impact of such declaration by the court.
- 5.3 If the federal government or State of California implements legislation which penalizes the City for paying increases in benefits and wages in excess of certain limits, then at the written request of either Party submitted to the other within ten (10) working days of such action by the government, the Parties shall meet promptly to negotiate the impact of such legislation.
- 5.4 If the federal government or State of California grants additional benefits, then at the written request of either Party submitted to the other within ten (10) working days of such action by the government, the Parties shall meet promptly to negotiate the impact of such granting.

Article 6 - RENEGOTIATIONS

- 6.1 In the event either party desires to negotiate a successor Agreement, such party shall serve upon the other during the period 120 calendar days and 90 calendar days prior to the termination date of this Agreement, its written request to commence negotiations.

- 6.2 The initiating party shall submit its initial written proposals to modify the current Agreement no later than 80 calendar days prior to the termination date of the Agreement.
- 6.3 Upon receipt of such written notice and written proposals from the opening party, negotiations shall begin no later than 60 calendar days prior to the termination date of the Agreement.

Article 7 - RELEASE TIME

- 7.1 When negotiating a successor agreement, the Union shall be represented by no more than five (5) employees who will not lose wages and benefits when negotiating during their scheduled work hours. The Union may assign up to two (2) paid representatives to participate in the negotiations.
- 7.2 The Union shall submit the names of all designated representatives to the Director of Human Resources at least two working days in advance of such meetings.

Article 8 - OPENERS

- 8.1 Within four (4) weeks of a written request by the City, the parties shall begin negotiations concerning proposed changes to the City's Administrative Policy and the City's Civil Service Rules.

Article 9 - CITY RIGHTS

- 9.1 Except as modified by this Agreement, the rights of the City as contained in the City Charter, Constitution, and Laws of the State of California include, but are not limited to, the right to determine the services, activities, and functions of its constituent departments, commissions and boards; set standards of service, determine the procedures and standards of selection for employment and promotion; direct its employees; take disciplinary action; relieve its employees from duty because of lack of work or for other legitimate reasons; maintain the efficiency of governmental operations, determine the methods, means and personnel by which governmental operations are to be conducted; take all necessary actions to carry out its service, activities, and functions in emergencies; and exercise complete control and discretion over its organization and the technology of performing its work.

Article 10 - ORDINANCES, CODES, AND RESOLUTIONS

- 10.1 Any written City ordinances, codes or resolutions currently in effect that cover subjects within the scope of representation shall not be changed during the term of this Agreement without first giving the Union the opportunity to meet and confer concerning such changes, except as otherwise provided by this Agreement.
- 10.2 Such meeting and conferring shall be up to and including mediation.

Article 11 - CIVIL SERVICE RULES AND REGULATIONS

- 11.1 This Agreement adopts and incorporates by reference the provisions of the Civil Service Rules and Regulations and the existing Salary Resolution insofar as these provisions apply to wages and fringe benefits and such provisions remain in effect except as modified herein.

Article 12 - NON-DISCRIMINATION

- 12.1 Neither party shall discriminate against an employee based on race, religious creed, color, national origin, ancestry, sex, age, political activity or affiliation, disability, medical condition, sexual orientation, or marital status. Neither party shall interfere with, intimidate, restrain or coerce any employee in his/her free choice to participate or not to participate actively in, or to join or not to join the Union.

Article 13 - AMERICANS WITH DISABILITIES ACT (ADA)

- 13.1 The City is required to comply with the Americans with Disabilities Act (ADA). The ADA is a federal statute designed to remove barriers which prevent qualified individuals with disabilities from enjoying the same employment opportunities that are available to persons without disabilities.
- 13.2 When an individual's disability creates a barrier, ADA requires the City to make reasonable accommodations to remove the barriers. The parties recognize that the City may be required to make accommodations that are contrary to the language or intent of existing provisions of this Agreement.

- 13.3 The parties agree that such accommodations shall not constitute a "past practice" or waiver by either party to its right to fully enforce such provisions in the future with regard to persons not subject to the protection of the ADA. Recognizing that circumstances surrounding ADA compliance in individual cases necessarily involves matters which are personal and require the utmost confidentiality, specifics of an individual case shall not be divulged by the City without the written consent of the affected employee. Although an accommodation made by the City pursuant to the ADA shall not be grievable or arbitrable, the impact of such accommodation shall be grievable and arbitrable.

Article 14 - MOA DISPUTES

- 14.1 All disputes which relate to matters contained in the Memorandum of Agreement or to ordinances, rules or regulations subject to meet and confer, shall be processed through SEIU, Local 715.

Article 15 - AUTHORIZED AGENTS

- 15.1 For purposes of administering the terms and provisions of this Agreement:
- a. City's principal authorized representative shall be the City's Director of Human Resources or his/her duly authorized representative [address: 456 West Olive Ave., Sunnyvale, CA 94086; telephone (408) 730-7495; FAX (408) 720-1497] except where a particular management representative is specifically designated in connection with a specific purpose.
 - b. The Union's principal authorized representative shall be the Union's Executive Secretary or his/her duly authorized representative [address: 891 Marshall Street, Redwood City, CA 94063; telephone (650) 365-8715; FAX (650) 365-7956].

Article 16 - UNION ACCESS

- 16.1 Authorized Union representatives may be granted access to work locations in all facilities where employees covered by this Agreement are employed, to conduct grievance investigations and observe working conditions.
- 16.2 Authorized Union representatives shall not interfere with the work operations of the City. Authorized Union representatives desiring such access to work locations shall first request entrance from the appropriate manager at which time the Authorized Union representative shall inform said manager of the purpose of the visit. Such request may be made by telephone or in person upon entering the work location.

- 16.3 The manager may deny access to a work location if, in his or her judgment, the visit will unduly interfere with the operation of the City. If access is denied, the Authorized Union representative will be informed when access will be made available. Such access shall be at a mutually agreed upon time, or within 24 work hours, if no agreement can be reached.
- 16.4 The Union shall give the Director of Human Resources a list of Authorized Union representatives. Access shall only be granted to Authorized Union representatives on the current list.

Article 17 - STEWARDS

- 17.1 There shall be a reasonable number of stewards in the unit.
- 17.2 At the request of the grievant, the grievant may be represented by a steward or the Chapter Chair, and/or the SEIU Field Representative.
- 17.3 In instances where the designated steward is unable to represent a grievant, an alternate steward, one who is on the current list of stewards as provided in 17.9, may act as a substitute.
- 17.4 A steward shall be granted reasonable release time to investigate and/or prepare for a grievance procedure and to attend a formal grievance hearing. A steward shall be granted reasonable release time to attend an investigative meeting and to act on behalf of an employee facing possible disciplinary action.
- 17.5 A steward shall operate within their designated area except as provided in 17.3.
- 17.6 A steward desiring to leave his/her work location to process a grievance shall first obtain permission from his/her supervisor. Release from work shall be made as soon as practical.
- 17.7 Permission from the grievant's supervisor shall first be obtained before a steward enters a work location of a grievant to process a grievance. Permission to enter shall be made as soon as practical.
- 17.8 The Union agrees that whenever a steward is involved in grievance activities listed above during work hours, only that amount of time necessary to bring about a prompt disposition of the matter will be utilized.
- 17.9 The Union shall give the Director of Human Resources or designee a list of the names of employees selected as stewards.

- 17.10 Only those employees whose names are on the current list shall be granted release time to serve as a steward.

Article 18 - RELEASE TIME WHEN MEETING WITH THE CITY

- 18.1 If the SEIU Field Representative of the Union attends a mutually agreed upon meeting with the City, the SEIU Field Representative and up to two (2) stewards and/or Chapter Chair shall have reasonable release time to attend such meeting
- 18.2 Travel time is included within the reasonable release time.

Article 19 - AGENCY SHOP

The parties are aware of the law enacted pursuant to Senate Bill 739, effective January 1, 2001, amending Government Code Section 3500 et. seq. concerning agency shop. The parties have agreed to implement and apply agency shop as set forth below. To the extent that there are differences between the statutory provisions and the language in this MOA, the MOA is intended to prevail.

19.1 Election

The City agrees to abide by the results of an election held amongst all SEIU-represented employees, which shall be monitored by an agreed third party neutral. The election will be conducted at a mutually agreed upon time, as indicated in the notice to all participants.

Should the majority of those voting choose in favor of agency shop, the following language shall become applicable no later than sixty (60) days after the election results are certified:

Except as provided otherwise in this Article, employees shall become and remain members of the Union or shall pay to the Union a service fee in-lieu thereof for the duration of this Agreement.

19.2 Waiver of Election for Newly-Represented Employees

The addition of classifications and/or employees to the unit represented by SEIU shall not require an election for the application of this Agency Shop provision to such classifications and/or employees.

19.3 Implementation

All SEIU-represented employees must either join the Union, pay a service fee to the Union or execute a written declaration claiming a religious or personal exemption from this requirement.

Any SEIU-represented employee hired by the City shall be provided through the Department of Human Resources a notice advising that the City has entered into an Agency Shop agreement with the Union.

Such notice shall include a form for the employee's signature authorizing payroll deduction of the Union dues or a service fee, or to request an exemption and to authorize the appropriate charitable contribution in lieu of Union membership or service fee payment (see # 4 below). Employees shall have fifteen (15) working days following the initial date of employment to fully execute the authorization form and return said form to the Department of Human Resources. If the employee fails to return the authorization forms, the City will initiate payroll deduction for service fees effective the next full pay period.

19.4 Religious Exemption

Any SEIU-represented employee who is a member of a bona fide religion, body or sect which has historically held conscientious objections to joining or financially supporting a public employee organization shall be permitted upon presentation of verification of active membership in such religion, body or sect, or personal affidavit, to make a charitable contribution equal to the service fee in-lieu of Union Membership or service fee payment.

Declarations of, or applications for, religious exemption and any supporting documentation shall be forwarded to the Union within ten (10) working days of receipt by the City. The Union shall have ten (10) working days after receipt of a request for religious exemption to challenge any exemption granted by the City Manager or his/her designee. If challenged, the deduction to the charity of the employee's choice shall be held/stopped pending resolution of the challenge.

19.5 Payroll Deductions and Pay-over

The effective date of dues, service fee deductions or charitable contributions shall be the next full pay period after receipt by the Human Resources Department of the authorization form.

Charitable deduction shall only be by regular payroll deduction. For purposes of this Article, charitable deduction means a contribution to one of the federations and/or entities within a federation to which the City has established payroll deductions

under the Citywide Giving Campaign. These federations shall be exempt from taxation under 501(c)(3) of the Internal Revenue Code.

The employee's earnings must be sufficient, after other legal and required deductions are made, to cover the amount of the dues or service fees authorized. All legal and required deductions have priority over Union dues and service fees.

When an employee is in a non-pay status for an entire pay period, no withholding will be made to cover the pay period from future earnings.

In the case of an employee who is in a non-pay status during only part of the pay period and the salary is not sufficient to cover the full withholding, no deduction shall be made.

The City shall promptly pay to the designated payee all sums so deducted.

19.6 Reports

The City shall provide biannually a list of all SEIU-represented employees making charitable deductions pursuant to a religious or personal exemption as described herein.

19.7 Financial Reports

The Union shall annually submit copies of a financial report similar to that required by the Labor-Management Disclosure Act of 1959, to the City's Department of Human Resources. Copies of such reports shall be available to employees, subject to the Agency Shop requirements of this Section, at the offices of the Union.

Failure to file such a report within sixty (60) days of the close of the Union's fiscal year shall result in the termination of all agency fee deductions, without jeopardy to any employee, until such report is filed.

19.8 Hold Harmless

The Union shall indemnify and hold harmless the City, its officers, and employees from any and all claims, demands, suits, or any other action arising from the Agency Shop provisions herein. In no event shall the City be required to pay from its own funds Union dues, service fees or charitable contributions which the employee was obligated to pay, but failed to pay, regardless of the reason(s).

19.9 Job Announcements

Job announcements for positions covered by this Agreement will incorporate the requirements of this Article as a condition of employment.

19.10 Enforcement

Nothing herein shall require the City to take disciplinary action against any employee who fails to comply with the provisions of this Article.

Article 20 - GRIEVANCE PROCEDURE

PREAMBLE

The parties agree that this grievance procedure is designed to resolve labor management issues in a way that maximizes the chances of mutual agreement. The communications/appeals process described below should also maximize harmonious, respectful, and polite communications.

DEFINITIONS

1. Grievance. A grievance is an alleged misapplication of a specific provision of this MOA, or a specific provision of the Administrative Policy Manual, Employee Handbook, City Ordinance, City Code, or Departmental Policies, rules or regulations covering wages, hours or other terms or conditions of employment, which alleged misapplication adversely affects the grievant. The content of Employee Performance Audits are not grievable.
2. Written Grievance. A written grievance is a grievance, as defined above, which has been reduced to writing on a form provided by the City, and which shall include the grievant's name, classification, department, immediate supervisor's name, representative's name, if any; the specific section of the MOA, Administrative Policy Manual, Employee Handbook, City Ordinance, City Code, or Departmental Policies alleged to have been misapplied, a specific description of the alleged grievance, with the circumstances supporting the grievant's allegation, and the specific remedy requested to resolve the grievance.
3. Grievant. A grievant is an employee, a group of employees or the Union. A grievant may file a grievance, as defined above. Alleged misapplications which affect more than one employee in a substantially similar manner may, by mutual agreement, be consolidated as a group grievance and thereafter represented by a single grievant.

Work day is defined as Monday through Friday exclusive of holidays as provided by the City's holiday schedule.

GRIEVANCE PROCEDURE

1. Unwritten Grievance. The grievant shall orally discuss his/her grievance with his/her immediate management supervisor in an attempt to resolve the grievance. The management supervisor shall give an oral response to the employee within seven (7) work days of the issue being raised by the employee.
2. Written Grievance.
 - A. Level 1: If the grievant is not satisfied with the resolution proposed at the unwritten level, he/she may, within twenty (20) calendar days from the event giving rise to a grievance, or from the date the employee should reasonably have been expected to have knowledge of such event, file a formal written grievance with his/her Program Manager on a form prepared and supplied by the City. The Program Manager shall, within seven (7) work days from the receipt of the grievance, meet the grievant and give a written response to the grievant on the original grievance form.
 - B. Level 2. If the grievant is not satisfied with the written response from his/her Program Manager, the grievant may, within seven (7) work days from the receipt of such response, file a grievance with his/her Division Level Manager. Within seven (7) work days of receipt of the written appeal, such Manager shall investigate the grievance, which shall include meeting with the grievant, and give a written response to the grievant on the original form.
 - C. Level 3. If the grievant is not satisfied with the written response from his/her Division Level Manager, the grievant may, with seven (7) work days from the receipt of the response appeal the grievance to the Department Director. Within seven (7) work days of receipt of the written appeal, the Department Director or designee shall investigate the grievance, which may include a meeting with the grievant, and give a written response to the grievant on the original grievance form.

- D. Level 4. If the grievant is not satisfied with the written response of the Department Director, the grievant may, within seven (7) work days from the receipt of this response, file a written appeal to the Director of Human Resources. Within seven (7) days of receipt of the written appeal, the Director of Human Resources (or designee) shall investigate the grievance, which may include a meeting with the grievant, and give a written response to the grievant on the original grievance form.
- E. Level 5. If the grievant is not satisfied with the written response of the Director of Human Resources, the grievant may, within seven (7) work days from the receipt of this response, file a written appeal to the City Manager. Within ten (10) work days of receipt of the written appeal, the City Manager or designee shall investigate the grievance, which shall include a meeting with the grievant, and give a written response to the grievant, which shall be final and binding, except as provided, below, in CONFIRMABLE ARBITRATION.

GENERAL PROVISIONS

- 1. The time limits set forth herein above are to be strictly followed. Time limits may be waived by mutual agreement signed by the parties.
- 2. If a grievant fails to carry his/her grievance forward to the next level within the prescribed time period, the grievance shall be considered denied.
- 3. If the original grievance is modified at any step, it shall be considered a new grievance and must be re-filed, treated as a new grievance and subject to all procedural considerations, unless, modified in writing by mutual consent of the parties.
- 4. If a supervisor or manager fails to respond with an answer within the given time period, the grievant may appeal to the next higher level.
- 5. The grievant may be represented by a person of his/her choice at any formal level of this procedure.
- 6. Formal levels may be waived by mutual consent of the parties.
- 7. If the grievant is not represented by the Union, the Union shall be notified of a settlement proposed at any written level of the procedure which is acceptable to both the grievant and the City prior to the settlement being finalized. The purpose of this step is to allow the Union to state its position for the record. If the Union does not provide a written response within seven (7) work days after notification, such opportunity shall be considered waived, and the proposed settlement shall be implemented and the matter closed.

8. Although grievances will normally be filed at the first level, the parties recognized that certain grievances, due to their nature, should be more appropriately filed at a higher level. The parties therefore agree that grievances should be filed at the lowest level wherein the incumbent has the authority to resolve such grievance.
9. By mutual agreement of the parties, a grievance may revert to a previous level of the procedure.

CONFIRMABLE ARBITRATION

1. If a grievance has been properly processed through GRIEVANCE PROCEDURE, above, and has not been resolved, then the grievant, through the Union, may appeal the grievance to Confirmable Arbitration.
2. To request Confirmable Arbitration, the appeal must be filed with the Director of Human Resources or designee within ten (10) work days of receipt of an answer at Level 5, or ten (10) work days from the last day an answer was possible at Level 5 of GRIEVANCE PROCEDURE.
3. The parties may mutually agree upon the selection of the arbitrator or shall jointly request the State of California Conciliation Service to provide a list of seven (7) names of persons qualified to act as arbitrators.
4. Within ten (10) work days following receipt of the above-referenced list, the parties shall communicate to select the arbitrator. The right to strike the first name shall be determined by lot, and the parties shall alternately strike one name from the list until only one (1) name remains, and that person shall be the arbitrator.
5. Within twenty (20) calendar days following receipt of the notice of appeal to Confirmable arbitration, a meeting or discussion shall be arranged by the Director of Human Resources or designee with the employee and appropriate Union representative to prepare a joint statement of the issue(s) to be presented to the arbitrator. If the parties are unable to agree upon the issue(s), each party will prepare its statement of the issue(s) to be presented to the arbitrator.
6. The arbitrator shall hold a hearing on the issue(s) jointly submitted, or as determined by the arbitrator if the parties have not mutually agreed upon the issue(s), and within 30 days of the hearing render a written decision with reasons for the decision.

Post Hearing Briefs

Unless the parties mutually agree, there shall be no post hearing briefs. The parties shall present oral argument immediately upon close of the presentation of evidence.

However, in the situation of multiple day hearings broken by days or weeks, or of a complex case, a party may request of the arbitrator the right to submit a post hearing brief.

7. Each of the parties shall pay for the time and expenses of its representatives and witnesses through all stages of the arbitration and shall contribute equally to the fees and expenses of the arbitrator and court reporter, if any. However, this paragraph is subject to the provisions of paragraph 10, hereafter.
8. The parties agree that the arbitrator shall not add to, subtract from, change or modify any provision of this Agreement and shall be authorized only to apply existing provisions of this Agreement to the specific facts involved and to interpret only applicable provisions of this Agreement.
9. The decision of the arbitrator shall be final and conclusive (*i.e.*, “confirmed”) unless the City acts within fifteen calendar days of the date of the award to exercise an option to take the dispute to Superior Court.
10. The City shall exercise its option by sending written notice to the Union within the above-mentioned fifteen day time period. In addition, by doing so it shall incur the financial obligation of paying within sixty days of the written notice from the Union all of its legal fees and costs (including its share of the arbitration costs). In addition, any applicable statutes of limitations for seeking judicial relief are agreed to have been waived by the City, because the Union initially took the matter to Confirmable Arbitration, under this Agreement.
11. The Union may then take the dispute to the courts. Once a final judgment is entered, if the Union prevails in whole or in part, the City shall be responsible for the totality of the Union’s attorney’s fees and costs of the prosecution of its case in the judicial forum. These monies shall be paid within sixty days of the judgment.
12. If the City exercises its option as above-described, then the judicial proceedings shall be considered a trial *de novo*, in the same fashion as judicial proceedings are considered when one side or the other rejects court-mandated arbitration.
13. If the arbitration is final and conclusive, as described above, by the City not exercising its option to force the matter to judicial proceedings, then the arbitrator’s award is subject to the California Arbitration Act, by petition of either side, pursuant to C.C.P. Sections 1280, *et seq.*

APPEAL PROCEDURE WAIVER

The Union agrees that the procedures set forth herein is the only grievance procedure available to the employees it represents and that any appeal rights found elsewhere within City Codes, Ordinances, Resolutions, or Policies are waived. The sole exception to this waiver is the Impasse Procedure, which is still applicable as a dispute resolution procedure available during the meet and confer.

Article 21 - EMPLOYEE SELECTION

- 21.1 The parties agree to recommend jointly to the Personnel Board and the City Council that the sections indicated below of the Civil Service Rules and Regulations Section 15.03 (Probationary Appointments) be modified to read as follows:

- 15.03 (a) The probationary period shall be ... six (6) calendar months for Regular Part-Time Classified employees.
- 15.03 (b) ... and Regular Part-Time Classified employees may have their probationary period extended up to six additional calendar months ...

Article 22 - PROBATIONARY PERIOD

- 22.1 Upon appointment to a classification within the classified service, an employee shall serve a probationary period of six (6) calendar months. If a status change is granted, regular status will be effective the first full pay period following the six (6) calendar month period.

Article 23 - MINIMUM/MAXIMUM HOURS

- 23.1 Regular Part-Time employment shall consist of a regular schedule, provided that the employee's normal work hours may not exceed thirty (30) hours per week, nor be less than twenty-one (21) hours per week, and provided further that an employee's total paid hours may not exceed 1,716 hours nor be less than 1,092 hours per fiscal year.

The number of hours per week that the employee will work will be established upon hire (i.e. 21 hours per week, 28 hours per week, etc.). It is expected that the employee will maintain his/her regularly scheduled hours each week utilizing work hours and/or accrued leave. The exception is for a week in which a holiday occurs; reference Article 47.

By mutual agreement, employees may work more than their regularly schedule hours per week.

- 23.2 It is understood that the City will not arbitrarily or capriciously change the average number of hours per week (or pay period) when a position becomes vacant.
- 23.3 If the City decides to add or subtract hours to a vacated position, it will notify the Union of its intention to change, and the reason for the change.
- 23.4 It is the intention of the City to discuss any proposed permanent increase or decrease in hours with the affected employee(s) prior to requesting such additional work or cuts in hours (within the maximum and minimum). The employee's needs will be accommodated whenever possible.
- 23.5 The City shall not schedule work shifts of less than four (4) hours, unless by mutual agreement with worker(s) or pay for a minimum of four (4) hours. It is understood that employee(s) who perform book drop pick-ups shall continue to be scheduled in two (2) hour increments in accordance with past practice.

Article 24 - REDUCTION IN FORCE

- 24.1 When it is necessary to reduce the staff for lack of work or funds or in the interest of economy, the City Manager shall determine the classes in which the reduction is to be made and the number of positions to be eliminated. The layoff of employees shall occur within the classes determined in accordance with the following procedure:
- (a) All employees holding provisional appointments shall be laid off first, except that those employees holding provisional appointments who have previously attained regular status in another classification shall be treated as regular employees in the most recent classification in which they have previously achieved regular status.
 - (b) Employees holding probationary appointments shall be laid off next; except that employees holding probationary appointments who have previously attained regular status in another classification shall be treated as regular employees in the most recent classification in which they have previously attained regular status.
 - (c) Employees holding regular appointments who have an overall performance rating of less than competent in the last complete performance evaluation shall be laid off next.
 - (d) All regular employees having a performance rating of at least competent shall be laid off last in order of seniority of service.

- (e) The names of regular or probationary employees laid off according to this procedure shall constitute a re-employment list in the inverse order of layoff.

Article 25 - PAY BASIS

- 25.1 An employee shall be paid only under one pay rate or scheduled amount in any given pay period, except as provided with regard to working out-of-class.

Article 26 - WAGES

- 26.1 The parties agree with the principle that wages should be "market competitive."
- 26.2 Definition of "Market Competitive". Market competitiveness is defined as a comparison with Regular Full Time classifications within the City of Sunnyvale, an external comparison to the equivalent classifications in the survey agency group, as specified in 26.11, or the establishment of an internal relationship to a Regular Full Time or Regular Part Time classification in the City of Sunnyvale. Explanations of "market comparisons" are provided in the following subparagraphs:

As used in this Article, "salary" means hourly rate of pay.

- 26.2.1 Comparison with Full Time Classification. If the essential functions, knowledge, skills, and abilities of an SEIU represented classification correspond to a Regular Full-Time classification in the City's work force, the target salary of the SEIU classification shall be the salary assigned to the Regular Full-Time classification.
- 26.2.2 External Survey. If the essential functions, knowledge, skills, and abilities of represented classifications correspond only to Regular Part-Time positions in the survey agency group, the target salaries for these classifications will be the average of salaries of the corresponding classification in these survey agencies. See paragraph 26.11 for the list of survey agencies.
- 26.2.3 Internal Relationship. If there is neither a corresponding Regular Full-Time classification to compare, nor a corresponding Regular Part-Time classification in the survey agency group, "market competitiveness" will be determined by a differential from the salary of the Regular Full-Time or Regular Part Time classification that is most closely related to the classification represented by the bargaining unit.
- 26.3 Effective with the pay period including February 1, 2001, the parties agree that certain job titles will be eliminated and that certain job titles will be changed. New job titles, eliminated job titles, and job comparability are shown in Table A, below. The method of calculating salaries is given in paragraphs 26.4 through 26.9, below.

Table A. Classification Comparability

JOB FAMILY	CURRENT CLASS TITLE	NEW CLASS TITLE	Internal COMPARABILITY
Clerical Assistant	Clerical Assistant I	(eliminate)	
	Clerical Assistant II	Part-Time Office Assistant	Office Assistant
	Clerical Assistant III	Part-Time Staff Office Assistant	Staff Office Assistant
	Clerical Assistant IV	Part-Time Senior Office Assistant	Senior Office Assistant
	Clerical Assistant V	Part-Time Principal Office Assistant	Principal Office Assistant
Staff Associate	Staff Associate	Part-time Administrative Aide	Administrative Aide
Laborer	Laborer I	Custodian	Groundsworker
	Laborer II	(eliminate)	
	Laborer III	Building Services Worker	Utility Worker
	Laborer IV	(eliminate)	
Library Clerk	Library Clerk I	(eliminate)	
	Library Clerk II	Library Specialist I	No comparable classifications.
	Library Clerk III	Library Specialist II	
	Library Clerk IV	Library Specialist III	
	Library Clerk V	(eliminate)	
Part-Time Librarian	Part-Time Librarian	Part-Time Librarian	Librarian
Nuisance Vehicle Technician	Nuisance Vehicle Technician	Nuisance Vehicle Inspector	No comparable classification.

26.4 Clerical Assistant Job Series. Incumbents in the Clerical Assistant job series will be placed into one of the new classifications shown in Table A. The basis for this placement will be a classification study that was completed by the Department of Human Resources. In the event that an employee disagrees with the result of the original classification study, that employee may request that the City's consultant perform a new reclassification study. Such reclassification study will be performed in accordance with Article 48 of this MOA.

Once placed into a new (retitled) classification, the incumbents will receive salary increases and progress toward the target of the salaries of the corresponding Regular Full-Time positions shown in Table A, above, consistent with paragraph 26.10.

- 26.5 Staff Associate. Staff Associate will be retitled to Part-Time Administrative Aide. Incumbents will receive salary increases and progress toward the target of the salary of the Regular Full-Time Administrative Aide in accordance with paragraph 26.10.
- 26.6 Laborer Job Series. Classifications in this series will be retitled in accordance with Table A, above. Incumbents will receive salary increases and progress toward the target of the respective salaries of the corresponding Regular Full-Time positions shown in Table A, above, consistent with paragraph 26.10.
- 26.7 Library Clerk Job Series. Classifications in this series will be retitled in accordance with Table A, above. The Library Specialist III classification will be set at sixty five percent (65.0%) of Part-Time Librarian (i.e. target salary). Incumbents in the Library Specialist III classification will receive salary increases and progress toward this target salary consistent with paragraph 29.10. The salary of Library Specialist II will be set at fifteen percent (15.0%) below that of Library Specialist III, and the salary of Library Specialist I will be set fifteen percent (15.0%) below that of Library Specialist II. These differentials will be maintained as the Library Specialist III classification moves toward its salary target.
- 26.8 Part-Time Librarian. Salary increases for 02/01/01 and 07/01/01 are specified in Section 26.10.1 and 26.10.2. Effective the beginning of the pay period that includes July 1, 2002, the Part-Time Librarian will be paid the same salary as the Regular Full Time Librarian.
- 26.9 Nuisance Vehicle Technician. This classification will be retitled to Nuisance Vehicle Inspector. The target salary will be set at twenty percent (20.0%) below that of the Regular Full-Time classification of Community Services Officer. Incumbents will receive salary increases and progress toward this target salary in accordance with paragraph 26.10.
- 26.10 Moving Toward Target Salaries. Over the life of this contract, members of the Unit will move toward their respective target salaries through a combination of "market" adjustments and "across the board" adjustments as stipulated in the following subparagraphs.

- 26.10.1 Across the Board Increase February 1, 2001. On the beginning of the pay period that includes February 1, 2001, all members of the Unit will receive a five percent (5.0%) across the board increase.
- 26.10.2 Across the Board Increase July 1, 2001. On the beginning of the pay period that includes July 1, 2001, all members of the Unit will receive a five percent (5.0%) across the board increase.
- 26.10.3 Market Adjustment and Minimum Increase for July 1, 2002. On the beginning of the pay period that includes July 1, 2002, all members, with the exception of the Part-Time Librarian, will receive a market adjustment increase equal to thirty-five percent (35.0%) of the difference between the salary of the classification and the target salary. The pay increase for each classification will be at least three percent (3.0%).

EXAMPLE: On June 30, 2002, an employee earns \$12.00 per hour; the target salary for the classification is \$18.00 per hour. Thirty-five percent (35.0%) of the market gap is \$2.10. Three percent (3.0%) of \$12.00 equals \$0.36. The market adjustment of \$2.10 or seventeen and one-half percent (17.5%) exceeds the three percent (3.0%) guarantee. The employee will receive an increase of \$2.10 an hour. The new hourly rate is \$14.10.

- 26.10.4 Market Adjustment and Minimum Increase for July 1, 2003. On the beginning of the pay period that includes July 1, 2003, all members, with the exception of the Part-Time Librarian, will receive a market adjustment increase equal to fifty percent (50.0%) of the difference between the salary of the classification and the target salary. The pay increase for each classification will be at least three percent (3.0%).

EXAMPLE: Continuing the previous example, on June 30, 2002, the employee is now earning \$14.10 per hour and the target salary has increased to \$18.54 per hour [this assumes a three percent (3.0%) movement in the market target]. The market difference is \$4.44. The employee's market adjustment would be fifty percent (50.0%) of \$4.44 or \$2.22, bringing him/her to a total salary of \$16.32 per hour as of July 1, 2003. The market adjustment reflects an fifteen percent and three-quarter percent (15.74%) increase in pay over the base of \$14.10 and exceeds the minimum pay increase of three percent (3.0%). The employee will receive an increase of \$2.22 an hour. The new hourly rate is \$16.32.

26.10.5 Market Adjustment for July 1, 2004. On July 1, 2004, all members will receive a market adjustment increase based on the comparisons and criteria established in Table A above. The amount of this market adjustment increase will be such that one hundred percent (100.0%) of the difference remaining between the salary of the classification and the target salary will be paid.

EXAMPLE: Continuing the previous example, on June 30, 2004, the employee is earning \$16.32 per hour and the target salary has increased to \$19.10 per hour which also assumes a three percent (3.0%) movement in market salaries. The employee's market adjustment would be this full amount (\$2.78 per hour), bringing him/her to the target salary of \$19.10 per hour. This reflects a seventeen percent (17.03%) increase in pay over the \$16.32 base salary. The new hourly rate is \$19.10.

26.10.6 Maximum Increase. Despite paragraphs 26.10.1 through 26.10.5, at no time will the salary of any Regular Part-Time Classification exceed the salary of the target classification. In the event that any across the board increase would pay a Regular Part-Time classification above that of the corresponding target classification, the across the board increase would be limited to the amount that would bring the employee's salary to that of the target.

26.11 Survey Agencies. The agencies to be surveyed for classifications where there is no corresponding Regular Full-Time classification are as follows:

Alameda	Milpitas	Richmond	San Mateo
Fremont	Mountain View	Santa Clara	
Hayward	Palo Alto	San Leandro	

26.12 New Classification Specifications. The parties agree that within one year of the effective date of this contract the City will re-write all classification specifications to update them to the current format and to ensure that the actual essential functions, knowledge, skills, and abilities are included therein and reflect the jobs that incumbents actually perform. The City will provide the Union with the proposed revisions and will meet to discuss, if requested by the Union.

26.14 PERS Employer Paid Member Contribution. The parties have agreed to report to PERS the value of Employer Paid Member Contributions or EPMC of seven percent (7.0%) as additional compensation for each SEIU unit member in accordance with Article 35 of this Agreement. The cost of this benefit improvement is calculated at 0.74% of salary. The parties agree that the cost of the EPMC is part of the total cost package associated with this Agreement.

Article 27 - SALARY RANGES

- 27.1 Effective January 21, 2001, the pay ranges are as shown in Appendix B.
- 27.2 Employees, at the time of appointment, will ordinarily be assigned the hourly rate in the first step of the pay range.
- 27.3 In extraordinary cases where it is necessary to attract experienced personnel, the employee may be assigned the hourly rate at any step in the pay range.
- 27.4 Upon promotion to a classification having an assigned pay range greater than the classification from which the employee is being promoted, the employee shall be entitled to that hourly pay step or interval in the pay range of the higher classification which is at least five percent (5.0%) above the employee's current hourly step rate, provided the increase does not exceed the rate contained in the fifth (5th) salary step.

Article 28 - MERIT INCREASES

- 28.1 Employees shall be eligible for a merit step increase after the successful completion of probation at 1040 hours of continuous service in the given classification. Employees shall be eligible for additional merit step increases upon completion of additional intervals of 2080 hours of continuous service in the given classification up to top step.
- 28.2 If a merit increase is granted, it will be effective the pay period following the pay period in which the hours threshold is reached.
- 28.3 Continuous service is that which is separated by no more than twenty-six (26) pay periods of non-service.
- 28.4 Merit step increases shall be approved unless the employee's overall performance is "Needs Improvement" or "Deficient".

Article 29 - ACHIEVEMENT PLANS/AUDITS

- 29.1 The City shall administer the Achievement Plans/Audits for Classified Regular Part-Time Employees in accordance with the Administrative Policy Manual Chapter III, Article V, Section 4.
- 29.2 The City and SEIU agree to re-open this Article of the MOA at such time as the City is ready to develop a new employee evaluation system.

Article 30 - OTHER PAY

30.1 Out-of-class. If, in any calendar week, an employee works more than eleven (11) hours in an out-of-class assignment, the employee will receive an additional five percent (5.0%) above the employee's normal pay for all hours worked in the week.

30.2 Bookmobile. An employee who drives the Bookmobile shall be compensated at twenty percent (20.0%) above the employee's normal pay for actual time spent driving the Bookmobile.

30.2.1 Side Letter of Agreement - Bookmobile is incorporated herein by reference.

30.3 Hazardous Duty Pay. Employees who regularly perform any of the duties listed below shall be paid two and one-half percent (2.5%) over their regular pay for the full pay period in which such work is performed as a part of the employee's regular assignment:

- (a) Use of high climbing rope for tree trimming work;
- (b) Use of mechanical, hydraulic or pneumatic boom equipment for high electrical or mechanical work;
- (c) Use of climbing equipment for high pole work;
- (d) Repair of knockdowns in which there is potential contact with high voltage electrical wires.

As used in this Article, "high" means that the nature of the work requires the employee to operate at a height above the ground that presents a danger of injury from a fall.

- (e) Operation of the stinger crane when there is potential contact with high voltage electrical wires; and,
- (f) Work in confined spaces as determined by the City, except as performed by employees at the Water Pollution Control Plant. Confined space is a space defined by the concurrent existence of the following conditions:
 - i. Existing ventilation is insufficient to remove dangerous air contamination and/or oxygen deficiency which may exist or develop.

- ii. Ready access or egress for the removal of a suddenly disabled employee is difficult due to the location and/or size of the opening.
- iii. Dangerous "air contamination" and "oxygen deficiency" are used as defined in Title 8, Article 108, Section 5156 of the California Occupational Safety and Health Code.

Article 31 - TRANSLATOR/BILINGUAL PAY

- 31.1 Employees shall be entitled to receive, in addition to their regular compensation, the additional payment outlined below for Translator/Bilingual skills if they meet the following criteria:
 - 31.1.1 Certification by the director of the department that a particular assignment involves need for the required skills on a regular basis, and
 - 31.1.2 Certification from the City that the employee possess the needed language skills at Level 5 or higher proficiency or Sign Language "communicator" level skills.
- 31.2 Qualifying languages are: Chinese, Japanese, Portuguese, Sign Language, Spanish, Tagalog (Filipino), Thai, Vietnamese, Farsi, and other language(s) deemed appropriate by the City.
- 31.3 The certifications required and obtained above will not necessarily follow an employee if transferred or promoted.
- 31.4 Effective the first full pay period following ratification of this MOA by the SEIU membership and approval by the City Council, payment shall be
 - 31.4.1 Thirty dollars (\$30.00) per month/thirteen dollars and eighty-five cents (\$13.85) per pay period.

Article 32 - TUITION REIMBURSEMENT

- 32.1 Employees are eligible for tuition reimbursement as provided in the City's Personnel Policies.

Article 33 - TRAINING ASSISTANCE

- 33.1 The City shall pay all or part of training costs for Classified Regular Part-Time Employees in accordance with the Administrative Policy Manual Chapter III, Article IV, Section 20.

Article 34 - SAFETY SHOES

- 34.1 Each employee in the Laborer series shall be required by the City to wear safety footwear and shall receive an allowance for the purchase of such footwear of one hundred sixty-five dollars (\$165.00) each fiscal year during the term of this Agreement.
- 34.2 Such payment shall be made according to procedures established by the City.
- 34.3 All employees who receive this benefit shall be required to purchase and wear CAL-OSHA Approved Safety Footwear.

Article 35 - PERS

- 35.1 Miscellaneous 2% @ 55 applies to employees in this Unit who are otherwise included within the PERS.
- 35.2 The City shall contribute seven percent (7.0%) of salary for the employee's "normal" contribution, and one percent (1.0%) to fund the cost of the "single highest year" retirement benefit.
 - 35.2.1 SEIU agrees to support the proposed amendment to the Miscellaneous PERS contract to reduce the employee contribution rate from eight percent (8.0%) to seven percent (7.0%).
 - 35.2.2 The City will proceed to place the appropriate PERS resolutions before the City Council and to complete all necessary paperwork to hold a secret ballot election among all PERS Miscellaneous City employees.
 - 35.2.3 The City agrees that the PERS Miscellaneous Contract will continue to provide for the single highest year benefit option paid by the City (through the Employer rate).
- 35.3 The City's payment of the employees' PERS contribution is based upon authority from PERS and upon tax treatment permitted by the Internal Revenue Service under Internal Revenue Code Section 414(h)(2) and revenue rulings related thereto, and by the California Franchise Tax Board. It is understood that the State Legislature or Congress may alter the statutory authority for this tax treatment, and the Franchise Tax Board or the IRS or the United States Department of the Treasury may alter the current revenue rulings, either by other rulings or by issuing new regulations.

- 35.4 The Union shall defend, indemnify and save harmless the City, its officers, agents and employees from any and all claims, demands, damages, cost, expenses, or liability, including but not limited to, liability for back taxes, and all claims of any type by the IRS, Franchise Tax Board, unit members or their heirs, successors, or assigns, arising out of this Agreement to "pick-up" or pay the employees' contribution to PERS.
- 35.5 The City has City contracted with PERS to provide Level III of the 1959 Survivor Benefit which is applicable to employees in this Unit.
- 35.6 The City shall adopt the necessary resolutions and obtain written confirmation of compliance from PERS to report the value of employer paid member contributions (EPMC) of seven percent (7.0%) as additional compensation for each SEIU member, effective as soon as administratively possible following ratification of this MOA.
- 35.7. Uniforms

Each employee required by the City to wear a uniform, and who actually wears the uniform during works hours, shall receive a uniform in a manner determined by the employee's department or division. A uniform is defined as clothing which is a ready substitute for personal attire the employee would otherwise have to acquire and maintain. This provision excludes items that are for personal health and safety.

A standardized value, as determined by the City, for qualified uniforms shall be reported as "special compensation" as required by PERS procedures for all SEIU employees as set forth herein.

Article 36 - FEDERAL MANDATES/SOCIAL SECURITY

- 36.1 If the Federal Government passes legislation or a court of competent jurisdiction makes a ruling that makes Social Security applicable to the employees within the Unit, then the parties agree to meet promptly at the request of either party to negotiate the impact of such law or ruling.
- 36.2 It is the intent of the parties to minimize the fiscal impact of such law or ruling upon each of the parties. If possible, there shall be no increased cost to either party while maintaining benefits as close to existing levels as possible.
- 36.3 If the parties have not reached agreement within 30 days the request to negotiate, the matter shall be submitted to the City's impasse procedure.

Article 37 - MEDICARE

- 37.1 Classified Part-Time employees shall be covered by Medicare.
- 37.2 The employee and the City shall each contribute the mandated percentage of the employee's wage toward the cost of Medicare. On the effective date of this Agreement, the percentage is 1.45%.

Article 38 - INSURANCE

38.1 Insurance Plans

- 38.1.1 The City shall offer group health insurance (PERS provided medical and City-sponsored dental and vision plans) for purchase by an employee. Purchase of the health insurance is an employee option.
- 38.1.2 Effective with the pay period including July 1, 2001, the City shall provide coverage under the Employee Assistance Program (EAP). Enrollment in the program is mandatory.

38.2 City Contribution

- a. If the employee opts to purchase health insurance through the City, then:
- i. The City's contribution toward medical, dental, and vision insurance shall be \$295.00 per month (\$136.15 per pay period).
 - ii. Effective with the pay period including July 1, 2001, the City's contribution towards medical, dental, and vision insurance, and the employee assistance program, shall be \$322.08 per month (\$148.65 per pay period).
 - iii. Effective with the pay period including July 2, 2002, the City's contribution towards medical, dental, and vision insurance, and the employee assistance program, shall be \$339.41 per month (\$156.65 per pay period).
- b. The employee shall be required to pay the balance due as a deduction from the employee's bi-weekly paycheck. The procedures for enrolling in the health insurance shall be established by the City.

38.3 Premium Conversion

The City agrees to continue to provide a program that will present employees with an option to pay their insurance premium contributions on a pre-tax basis, as provided in the Internal Revenue Code.

38.4 Cash In-Lieu

- a. As provided in PERS rules, current employees and new hire employees have the option of selecting no medical coverage.
- b. To elect this option, an employee must sign a waiver stating that he/she understands that he/she will not receive coverage through a City sponsored PERS provided medical plan.
- c. If an employee elects to enroll in a City sponsored PERS provided medical plan, he/she must either do so during the open enrollment period following the implementation of this Agreement, during any subsequent open enrollment period, or must submit a health statement as required by the PERS provided medical plans.
- d. Procedures for electing this option and for enrolling in the City sponsored PERS provided medical plans shall be established by the City.
- e. If an employee elects the cash in lieu option then, effective 1 September 1992, the City shall pay the employee \$25.00 per month.

Article 39 - STATE DISABILITY INSURANCE (SDI)

- 39.1 The City agrees to continue to contract with the State of California Employment Development Department to provide SDI benefits to Classified Regular Part-Time employees.
- 39.2 The cost of SDI or the alternative benefits will be paid by employees through payroll deductions. The City's administrative costs shall be paid by the City.

Article 40 - UNEMPLOYMENT INSURANCE

- 40.1 The City will provide Unemployment Insurance benefits at no cost to the employee.

Article 41 - PAID LEAVE

- 41.1 During the first 1,000 hours of service with the City, accrual of paid leave shall begin at the rate of .085 hour of leave for each paid hour.
- 41.2 From 1,001 to 2,500 hours of service with the City, accrual of paid leave shall increase to the rate of .094 hour of leave for each paid hour.
- 41.3 Upon completion of more than 2,500 hours of service with the City, accrual of paid leave shall increase to the rate of .119 hour of leave for each paid hour.
- 41.4 The maximum accumulation of accrued leave shall be 225 hours. There shall be no accrual over 225 hours.
- 41.5 Requests for leave must be submitted on appropriate leave request forms in accordance with City policy.
- 41.6 Use of paid leave shall be subject to approval by the employee's supervisor.
- 41.7 Accumulated leave shall be paid to the employee at the time of separation from the City.

Article 42 - BEREAVEMENT LEAVE

- 42.1 An employee is entitled to bereavement leave in the amount not to exceed 20 hours where death has occurred:

to an employee's spouse, father, mother, son, daughter, brother, sister, grandparents or grandchildren; or to the father, mother, son, daughter, brother, sister, grandparents or grandchildren of an employee's spouse.
- 42.2 SEIU and the City agree to reopen this Article, if and when the City Council implements a domestic partner policy, to discuss the effect, if any, on this benefit at that time.

Article 43 - CITYWIDE EMPLOYEE EMERGENCY LEAVE RELIEF FUND

- 43.1 The City-Wide Employee Emergency Leave Relief Fund is a program that allows an employee who has leave hours accrued, the opportunity to donate a portion of his/her accrued leave to benefit another employee needing paid emergency leave.

- 43.2 To benefit from this fund, the receiving employee must be eligible to accrue City paid leave time, must have used all available accrued leave and must have a personal emergency that requires the employee to be on leave from work responsibilities to attend to the emergency.
- 43.3 To receive relief hours from the Fund, the employee, a member of the family or a friend must submit a written request to the City Manager or designee stating the hours needed and briefly explaining the circumstances of the emergency requiring use of hours from the Fund.
- 43.4 Rules and procedures defining the use of this Fund shall be promulgated by the City Manager or his/her designee.

Article 44 - BENEFITS WHILE ON LEAVE DUE TO DISABILITY / MATERNITY LEAVE

- 44.1 City will provide health insurance benefits to eligible employees, while on leave due to disability or maternity leave, for up to twelve (12) calendar weeks in a twelve (12) month period under the following conditions:
 - a. Employee has a serious health condition that makes the employee unable to perform the essential duties of his/her position.
 - b. Employee is on maternity leave after the birth of a child.
 - c. Employee must have completed one (1) year of classified service with the City.
 - d. Employee must have used all leave available.
 - e. This disability/maternity leave must run concurrently with any other paid leave.
 - f. If employee chooses not to request City-Wide Employee Emergency Leave Relief Fund, the total amount of health insurance coverage is limited to twelve (12) weeks.
 - g. Employee needs to provide medical certification when employee first requests leave for this purpose and thereafter, upon the City's request.
 - h. Employee will continue to pay his/her share of insurance contributions as if on active status.

44.2 Definitions

Benefits: Benefits included are medical insurance, dental insurance, and vision insurance for self and dependents, if dependents are covered while the employee is on active status.

12 Month Period: Means a rolling twelve (12) month period measured from the first date medical/maternity leave is taken and continuous with each additional leave day taken.

For other definitions and interpretations, it is agreed that the FMLA (Family/Medical Leave Act) Guidelines as currently adopted by the City of Sunnyvale Administrative Policy will be followed.

Article 45 - JURY DUTY

45.1 The City shall grant a leave with pay for any employee required to report to Jury Duty until that employee is released by the Court. The paid leave would cover only those regularly scheduled work hours provided that the employee:

- (a) is actively engaged in the jury process;
- (b) returns to his/her worksite to complete his/her shift if the employee is released prior to the end of the employee's regular work day; and
- (c) gives to the City all fees received from such duties within thirty (30) days from termination of jury service.

Article 46 - SUBSTITUTES

46.1 For all departments, except the Library, when an employee is absent from work, due to either a planned or unplanned absence, the supervisor shall obtain a substitute, if necessary, for the employee.

46.2 For the Library:

- a. For planned absences, the current practice of the employee obtaining a substitute shall continue; with the understanding that such substitute shall be within the same classification within the regular part-time category.
- b. For unplanned absences due to an emergency, the employee shall notify his/her supervisor of the employee's inability to come to work no later than the employee's schedule starting time. The supervisor shall assume responsibility for obtaining a substitute.

- 46.3 If the supervisor cannot obtain a replacement from other regular part-time employees, the supervisor may obtain temporary assistance from either full-time employees, the hiring or the use of a casual/seasonal employee, or from a temporary agency.

Article 47- HOLIDAYS/SHORT TERM ABSENCES/LONG TERM ABSENCES

- 47.1 During weeks in which there are (closed building) holidays, an employee is required to have a combination of work hours and paid leave hours equal to at least 21 hours. To meet this requirement:
- a. If an employee does not have sufficient accrued paid leave, he/she shall be required to work additional hours during the holiday week to meet such requirements. Such additional hours will be as agreed to by the employee and the employee's supervisor.
 - b. If an employee has sufficient accrued paid leave, he/she shall be required to use enough paid leave during the holiday week to meet such requirement unless the employee and the employee's supervisor agree that the employee may work additional hours during the holiday week.
- 47.2 Employees whose regular shifts do not fall below 21 hours in a holiday week do not have to spend accrued paid leave, but they may use enough paid leave to equal their schedule for that week.
- 47.3 Employees who need to be absent from work due to illness, or other bona fide personal needs, shall use accrued paid leave, or may make up the time if mutually agreeable with the supervisor. If the employee does not have accrued leave available, Leave Without Pay may be taken on a short-term basis in accordance with administrative procedure.
- 47.4 Long-term leaves without pay and pre-scheduled leaves without pay must be approved through the City's regular administrative process.

Article 48 - RECLASSIFICATION

- 48.1 For future reclassifications during the term of this MOA, an employee may submit a request for a reclassification for his or her job to the Department of Human Resources and to his/her supervisor only during the month of February of each year.
- 48.2 Such request shall be processed through the employee's department and submitted to the Department of Human Resources no later than March 31 of the same year.

- 48.3 If the Department of Human Resources declines to perform the requested reclassification study, then the requesting employee shall be notified in writing no later than June of the same year. The Department of Human Resources may decline a request for a reclassification of a job that has been studied within the past 24 months, unless the employee and the affected department justifies such new request.
- 48.4 Each employee submitting a reclassification request shall receive a written response to such request, but in no event shall the response be later than the end of the fiscal year following the fiscal year of submittal.
- 48.5 If the City denies the reclassification of the employee's position, the City shall give the incumbent the reasons for denial in writing.
- 48.6 If the City reclassifies the position, and the employee was eligible, as defined in the Administrative Policy, Chapter III, Article 2, to be reclassified when the request was filed, the employee shall be appointed to the new classification retroactively, effective the full pay period after the request was originally submitted to the Department of Human Resources.
- 48.7 If the employee was not eligible to be promoted when the request was filed, then the reclassification shall be effective when the employee becomes eligible.

Article 49 - TESTING FOR CITY VACANCIES

- 49.1 Any employee represented by SEIU who desires to test for a position advertised and posted by the City, if such a position represents a promotion or lateral transfer, shall be entitled to time off without loss of pay for the period required to take any and all parts for the testing process, if such testing occurs during the employee's regularly scheduled work hours. Each employee is allowed to exercise this prerogative twice per year.

Article 50 - SELECTION APPEAL PROCEDURE

- 50.1 Job applicants may file an appeal of the selection process based only on one of the following:
- (a) The employee's completed application form is in dispute;
 - (b) Assertions that the employee's experience, training, education, etc., as detailed on the employee's application, meets the qualifications as advertised in the job announcement;

- (c) Assertions that the City's selection procedure was not followed;
 - (d) Assertions that the employee has been discriminated against on the basis of race, religious creed, color, national origin, ancestry, sex, age, physical handicap, medical condition, marital status, or Union membership in any aspect of selection.
- 50.2 In such cases, the employee shall file a written statement specifying the dispute and requesting a review before the Director of Human Resources.
- 50.3 Such statement must be submitted within seven (7) calendar days after the applicant knew or should have known of the problem prompting the appeal pursuant to (a) through (d) above.
- 50.4 A review before the Director of Human Resources or designee shall be set for a time that is within seven (7) calendar days of receipt of the appeal.
- 50.5 A fair and impartial review shall be held with the Director of Human Resources or designee to consider the facts and circumstances of the appeal. Applicant may submit any pertinent materials. If the appeal relates to an oral interview in which the Director of Human Resources participated, the appeal will go directly to the Assistant City Manager for the final determination (see 17.8 below).
- 50.6 The Director of Human Resources or designee will provide a written response to applicant within seven (7) calendar days.
- 50.7 Should applicant still be dissatisfied with the response, he/she may request within seven (7) calendar days a further review before the Assistant City Manager or a designee who is at least at the Department Director level.
- 50.8 Assistant City Manager or designee shall hold a review within seven (7) calendar days from the date of the appeal to further consider the facts and circumstances of the appeal. Assistant City Manager or designee shall make a final decision and notify applicant within fourteen (14) days of the appeal.

Article 51 - DEFERRED COMPENSATION

- 51.1 The City's deferred compensation program shall be available to employees represented by SEIU according to the provisions of the plan currently in effect.

Article 52 - CREDIT UNION PAYCHECK DEDUCTION

- 52.1 Effective with the first day of the pay period following the completion of the employee's enrollment and designation form with the Sunnyvale Employees Federal Credit Union, employees may deposit a specific amount of his/her net salary via paycheck deduction.

Article 53 - EMPLOYEE TOOLS

- 53.1 The City shall furnish tools needed by an employee to perform tasks assigned by the City.

Article 54 - REST PERIODS

- 54.1 The City shall provide rest periods as provided for in the Administrative Policy Manual (Chapter III, Article VI, Section 3).

Article 55 - SELF-DIRECTED WORK TEAMS

- 55.1 SEIU and the City agree to the concept and practice of self-directed work teams (SDWT) as outlined in the Sunnyvale Initiative.
- 55.2 New teams will be established in accordance with the SDWT Initiative, upon approval of the Project Design Team, the City Manager, and SEIU, and with at least a 2/3 vote of the SEIU-represented employees in the proposed new self-directed work team.

Article 56 - UNION/MANAGEMENT JOINT RESOLUTION MEETINGS

- 56.1 The parties agree that regular meetings to explore mutual problems will be beneficial to the relationship between the City and the Union. To promote a problem-solving approach, the parties agree that decision making shall be by consensus. For these purposes, consensus means that no meeting participant objects to a decision or course of action under consideration by the group.
- 56.2 Consequently the parties agree to meet monthly to discuss any issue concerning the rights of either party or the relationship between the City and the Union or the City and employees the Union represents. The purpose of the meetings is to exchange information and to solve problems. By mutual agreement, the parties may meet more often than or less often than once a month.
- 56.3 The parties agree that such meetings shall not be negotiations and therefore the results of the meetings shall not be binding on the parties unless they develop and execute a document that memorializes their results.

- 56.4 Each of the parties may have three (3) representatives plus additional people as reasonably needed for a specific topic. Union representatives shall receive reasonable release time to participate in these meetings.
- 56.5 To promote the objectives of this process, the parties agree to focus on the problem under consideration and to attempt to develop a consensus solution for each problem discussed by the group. Further, to promote the objectives of this process, the parties agree to refrain from negatively characterizing the participation, ideas or approach of the other party to people outside the meeting.

Article 57 - CITYWIDE COMMITTEES

57.1 Citywide Safety Committee

57.1.1 An employee designated by the Union shall be a member of the Citywide Safety Committee.

57.1.2 The Union shall designate such employee member in writing to the Director of Human Resources and to the Director of the employee's department.

57.2 Employee Committees

57.2.1 Upon the City's assessment that a committee will be involved with issues of interest/concern to the Union, City Management will invite Union participation.

Article 58 - EMPLOYEE ROSTER

- 58.1 Quarterly, at the written request of the Union, City shall provide a roster of employees which contains each employee's name, class, department, division, hire date, fiscal year-to-date hours, life-to-date hours, last day worked, range, step, and hourly rate.
- 58.2 Bi-weekly, the City shall provide a list of new hires/separations.
- 58.3 At new employee orientation, the City shall provide the employee a form (provided by the Union and agreed to by the City) to complete whereby the employee will or will not provide authorization to the City to release the employee's home address and telephone number to the Union. If the employee provides such authorization, the employee's home address and telephone number will be included on the reports.

Article 59 - PERSONNEL FILES

- 59.1 The Department of Human Resources shall maintain the official employee personnel file.
- 59.2 With reasonable notice to the Department of Human Resources, an employee or his/her representative upon presentation of written authorization from the employee, shall have access to the employee's personnel file.
- 59.3 The employee may be required to acknowledge receipt of any document entered into his/her personnel file without prejudice to subsequent arguments concerning the contents of such documents.

Article 60 - BULLETIN BOARDS

- 60.1 The Union shall have the use of designated bulletin board space to post material related to Union business.
- 60.2 The placement of bulletin boards and the portion of the board to be made available to the Union shall be determined by mutual agreement.
- 60.3 Any materials posted must be dated and initialed by the Union representative responsible for the posting.
- 60.4 At the time of the posting, a copy of the material must be given to the management representative designated for that bulletin board.
- 60.5 The Union shall remove posted material after it has served its purpose, usually within 30 days.
- 60.6 The Union agrees that nothing of a libelous, obscene, defamatory, or of a partisan political nature, or inconsistent with the promotion of harmonious labor relations between the City and the Union shall be posted.
- 60.7 The Union agrees that this Article provides the right to post materials only on designated bulletin boards.
- 60.8 Any material posted in violation of this Article may be removed by the management representative designated for a particular bulletin board.
- 60.9 If material is removed pursuant to 60.8 above, the City shall notify the Union in writing of the removal and the reasons therefore.

Article 61 - PRINTING COSTS

- 61.1 The parties agree to mutually select a printer who will produce copies of this Agreement. The parties will equally share the cost of the initial edition. If either party needs additional copies, such party will bear the cost of the additional printing.

Bargaining Unit #4 - SEIU Local 715
Memorandum of Agreement
February 1, 2001 – June 30, 2005

CITY OF SUNNYVALE

BARGAINING UNIT #4
(SEIU, Local 715)

Charles Schwabe
Acting Director of Human Resources

Mary Lee
Worksite Organizing Director
SEIU Local 715

Tammy Parkhurst/Human Resources
Negotiating Team Member

Robert Balmanno
Bargaining Unit #4 SEIU Chapter Chair

Karen Willes/Library
Negotiating Team Member

Joan Coston
Bargaining Unit #4 Member

Royal Caswell, III/Finance
Negotiating Team Member

Juanita Harris
Bargaining Unit #4 Member

Kirk Sanfilippo/Public Safety
Negotiating Team Member

Angelo Lopez
Bargaining Unit #4 Member

Dated: February 27, 2001

APPENDIX A

Regular Part-time Classifications

Building Services Worker

Custodian

Library Specialist I

Library Specialist II

Library Specialist III

Nuisance Vehicle Inspector

Part-time Administrative Aide

Part-time Librarian

Part-time Office Assistant

Part-time Principal Office Assistant

Part-time Senior Office Assistant

Part-time Staff Office Assistant

APPENDIX B

REGULAR PART-TIME CLASSIFICATIONS

JOB CODE	CLASSIFICATION	PAY RANGE	STEP 1	STEP 2	STEP 3	STEP 4	STEP 5
8303	Building Services Worker	8303	10.2666	10.7800	11.3190	11.8849	12.4791
8301	Custodian	8301	9.3120	9.7776	10.2665	10.7798	11.3188
8402	Library Specialist I	8402	7.8396	8.2316	8.6431	9.0753	9.5291
8403	Library Specialist II	8403	9.4883	9.9627	10.4609	10.9839	11.5331
8404	Library Specialist III	8404	11.0889	11.6434	12.2255	12.8368	13.4786
8600	Nuisance Vehicle Inspector	8600	11.0175	11.5683	12.1468	12.7541	13.3918
8500	Part-time Administrative Aide	8500	19.3692	20.3377	21.3546	22.4223	23.5434
8400	Part-time Librarian	8400	20.5558	21.5836	22.6628	23.7959	24.9857
8102	Part-time Office Assistant	8102	12.9205	13.5665	14.2448	14.9570	15.7049
8105	Part-time Principal Office Assistant	8105	18.2763	19.1902	20.1497	21.1571	22.2150
8104	Part-time Senior Office Assistant	8104	16.1260	16.9323	17.7789	18.6678	19.6012
8103	Part-time Staff Office Assistant	8103	14.2449	14.9572	15.7050	16.4903	17.3148

Effective: January 21, 2001

SIDE LETTER OF AGREEMENT
to the
2001 - 2005 Memorandum of Agreement
between the
City of Sunnyvale
and
Service Employees International Union, Local 715 (SEIU)

Article 30.2.1 - Bookmobile

With the adoption of the 2001-2005 SEIU MOA and the elimination of the Library Clerk V classification, it is agreed that the following actions will be taken for the one employee currently in the classification of Library Clerk V and who drives the Bookmobile.

As agreed, this employee will be moved to the new Library Specialist III classification. At this point, the employee's actual salary will exceed the top step for the classification of Library Specialist III. This employee will be "grand fathered", and will receive the agreed upon across-the-board five percent (5.0%) increase on February 1, 2001, and the across-the-board five percent (5.0%) increase on July 1, 2001.

Based on estimated salary increases, it is expected that the top step for the classification of Library Specialist III will exceed the employee's actual salary effective with the July 1, 2002 increase. Effective July 1, 2002, and thereafter, the employee's salary shall move as it would for any other employee in the classification of Library Specialist III.

Therefore, for the period of February 4, 2001 through June 30, 2002, the Bookmobile premium for this employee shall be fifteen percent (15.0%). Effective July 1, 2002, the premium shall be twenty percent (20.0%) as provided in Article 30.2 of the MOA.

Date: February 27, 2001

For the City of Sunnyvale:

For Service Employees International
Union, Local 715:

Tammy M. Parkhurst
Human Resources Supervisor

Mary Lee
Worksite Organizing Director

**SIDE LETTER OF AGREEMENT
to the
2001 - 2005 Memorandum of Agreement
between the
City of Sunnyvale
and
Service Employees International Union, Local 715 (SEIU)**

As previously documented in a Side Letter, dated January 27, 1998, to the 1998-2001 Memorandum of Agreement (MOA), the Sunnyvale Public Library will continue to pay for annual membership in the California Library Association for all Regular Part-time Librarians.

The Library will continue to pay for single day registration fees for Regular Part-time Librarians whose schedules allow attendance at local California Library Association annual conferences.

These provisions will continue throughout the duration of the 2001-2005 MOA.

Date: February 27, 2001

For the City of Sunnyvale:

For Service Employees International
Union, Local 715:

Victoria L. Johnson
Director of Libraries

Mary Lee
Worksite Organizing Director

SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 715 (SEIU)
MEMORANDUM OF AGREEMENT (MOA)
DATED February 1, 2001 – June 30, 2005

- Whereas,** When the final draft of the MOA was prepared, a clerical error occurred and some draft language inadvertently was included in the final document, and
- Whereas,** Representatives of SEIU and the City of Sunnyvale desire to correct this error and have the correct language documented;
- Therefore,** It is agreed, that the following language will replace that of Article 19 of the February 1, 2001 - June 30, 2005 MOA:

Article 19 – Agency Shop

The parties are aware of the law enacted pursuant to Senate Bill 739, effective January 1, 2001, amending Government Code Section 3500 et. seq. concerning agency shop. The parties have agreed to implement and apply agency shop as set forth below. To the extent that there are differences between the statutory provisions and the language in this MOA, the MOA is intended to prevail.

19.1 Election

The City agrees to abide by the results of an election held amongst all SEIU-represented employees, which shall be monitored by an agreed third party neutral. The election will be conducted at a mutually agreed upon time, as indicated in the notice to all participants.

Should the majority of those voting choose in favor of agency shop, the following language shall become applicable no later than sixty (60) days after the election results are certified:

Except as provided otherwise in this Article, employees shall become and remain members of the Union or shall pay to the Union a service fee in-lieu thereof for the duration of this Agreement.

19.6 Waiver of Election for Newly-Represented Employees

The addition of classifications and/or employees to the unit represented by SEIU shall not require an election for the application of this Agency Shop provision to such classifications and/or employees.

19.7 Implementation

All SEIU-represented employees must either join the Union, pay a service fee to the Union or execute a written declaration claiming a religious exemption from this requirement.

Any SEIU-represented employee hired by the City shall be provided through the Department of Human Resources a notice advising that the City has entered into an Agency Shop agreement with the Union.

Such notice shall include a form for the employee's signature authorizing payroll deduction of the Union dues or a service fee, or to request an exemption and to authorize the appropriate charitable contribution in lieu of Union membership or service fee payment (see # 4 below). Employees shall have fifteen (15) working days following the initial date of employment to fully execute the authorization form and return said form to the Department of Human Resources. If the employee fails to return the authorization forms, the City will initiate payroll deduction for service fees effective the next full pay period.

19.8 Religious Exemption

Any SEIU-represented employee who is a member of a bona fide religion, body or sect which has historically held conscientious objections to joining or financially supporting a public employee organization shall be permitted upon presentation of verification of active membership in such religion, body or sect, to make a charitable contribution equal to the service fee in-lieu of Union Membership or service fee payment.

Declarations of, or applications for, religious exemption and any supporting documentation shall be forwarded to the Union within ten (10) working days of receipt by the City. The Union shall have ten (10) working days after receipt of a request for religious exemption to challenge any exemption granted by the City Manager or his/her designee. If challenged, the deduction to the charity of the employee's choice shall be held/stopped pending resolution of the challenge.

19.9 Payroll Deductions and Pay-over

The effective date of dues, service fee deductions or charitable contributions shall be the next full pay period after receipt by the Human Resources Department of the authorization form.

Charitable deduction shall only be by regular payroll deduction. For purposes of this Article, charitable deduction means a contribution to one of the federations and/or entities within a federation to which the City has established payroll deductions under the Citywide Giving Campaign. These federations shall be exempt from taxation under 501(c)(3) of the Internal Revenue Code.

The employee's earnings must be sufficient, after other legal and required deductions are made, to cover the amount of the dues or service fees authorized. All legal and required deductions have priority over Union dues and service fees.

When an employee is in a non-pay status for an entire pay period, no withholding will be made to cover the pay period from future earnings.

In the case of an employee who is in a non-pay status during only part of the pay period and the salary is not sufficient to cover the full withholding, no deduction shall be made.

The City shall promptly pay to the designated payee all sums so deducted.

19.6 Reports

The City shall provide biannually a list of all SEIU-represented employees making charitable deductions pursuant to a religious exemption as described herein.

19.7 Financial Reports

The Union shall annually submit copies of a financial report similar to that required by the Labor-Management Disclosure Act of 1959, to the City's Department of Human Resources. Copies of such reports shall be available to employees, subject to the Agency Shop requirements of this Section, at the offices of the Union.

Failure to file such a report within sixty (60) days of the close of the Union's fiscal year shall result in the termination of all agency fee deductions, without jeopardy to any employee, until such report is filed.

19.9 Hold Harmless

The Union shall indemnify and hold harmless the City, its officers, and employees from any and all claims, demands, suits, or any other action arising from the Agency Shop provisions herein. In no event shall the City be required to pay from its own funds Union dues, service fees or charitable contributions which the employee was obligated to pay, but failed to pay, regardless of the reason(s).

19.9 Job Announcements

Job announcements for positions covered by this Agreement will incorporate the requirements of this Article as a condition of employment.

19.10 Enforcement

Nothing herein shall require the City to take disciplinary action against any employee who fails to comply with the provisions of this Article.

Dated as of March __, 2001.

CITY OF SUNNYVALE

SERVICE EMPLOYEES
INTERNATIONAL UNION,
Local 715

Tammy M. Parkhurst
Human Resources Supervisor

Mary Lee
Worksite Organizing Director

MARKED CORRECTIONS

AMENDMENT No. 1 TO
SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 715 (SEIU)
MEMORANDUM OF AGREEMENT (MOA)
DATED February 1, 2001 – June 30, 2005

- Whereas,** When the final draft of the MOA was prepared, a clerical error occurred and some draft language inadvertently was included in the final document, and
- Whereas,** Representatives of SEIU and the City of Sunnyvale desire to correct this error and have the correct language documented;
- Therefore,** It is agreed, that the following language will replace that of Article 19 of the February 1, 2001 - June 30, 2005 MOA:

Article 19 – Agency Shop

The parties are aware of the law enacted pursuant to Senate Bill 739, effective January 1, 2001, amending Government Code Section 3500 et. seq. concerning agency shop. The parties have agreed to implement and apply agency shop as set forth below. To the extent that there are differences between the statutory provisions and the language in this MOA, the MOA is intended to prevail.

19.1 Election

The City agrees to abide by the results of an election held amongst all SEIU-represented employees, which shall be monitored by an agreed third party neutral. The election will be conducted at a mutually agreed upon time, as indicated in the notice to all participants.

Should the majority of those voting choose in favor of agency shop, the following language shall become applicable no later than sixty (60) days after the election results are certified:

Except as provided otherwise in this Article, employees shall become and remain members of the Union or shall pay to the Union a service fee in-lieu thereof for the duration of this Agreement.

19.2 Waiver of Election for Newly-Represented Employees

The addition of classifications and/or employees to the unit represented by SEIU shall not require an election for the application of this Agency Shop provision to such classifications and/or employees.

19.3 Implementation

All SEIU-represented employees must either join the Union, pay a service fee to the Union or execute a written declaration claiming a religious ~~or personal~~ exemption from this requirement.

Any SEIU-represented employee hired by the City shall be provided through the Department of Human Resources a notice advising that the City has entered into an Agency Shop agreement with the Union.

Such notice shall include a form for the employee's signature authorizing payroll deduction of the Union dues or a service fee, or to request an exemption and to authorize the appropriate charitable contribution in lieu of Union membership or service fee payment (see # 4 below). Employees shall have fifteen (15) working days following the initial date of employment to fully execute the authorization form and return said form to the Department of Human Resources. If the employee fails to return the authorization forms, the City will initiate payroll deduction for service fees effective the next full pay period.

19.4 Religious Exemption

Any SEIU-represented employee who is a member of a bona fide religion, body or sect which has historically held conscientious objections to joining or financially supporting a public employee organization shall be permitted upon presentation of verification of active membership in such religion, body or sect, ~~or personal affidavit~~, to make a charitable contribution equal to the service fee in-lieu of Union Membership or service fee payment.

Declarations of, or applications for, religious exemption and any supporting documentation shall be forwarded to the Union within ten (10) working days of receipt by the City. The Union shall have ten (10) working days after receipt of a request for religious exemption to challenge any exemption granted by the City Manager or his/her designee. If challenged, the deduction to the charity of the employee's choice shall be held/stopped pending resolution of the challenge.

19.5 Payroll Deductions and Pay-over

The effective date of dues, service fee deductions or charitable contributions shall be the next full pay period after receipt by the Human Resources Department of the authorization form.

Charitable deduction shall only be by regular payroll deduction. For purposes of this Article, charitable deduction means a contribution to one of the federations and/or entities within a federation to which the City has established payroll deductions under the Citywide Giving Campaign. These federations shall be exempt from taxation under 501(c)(3) of the Internal Revenue Code.

The employee's earnings must be sufficient, after other legal and required deductions are made, to cover the amount of the dues or service fees authorized. All legal and required deductions have priority over Union dues and service fees.

When an employee is in a non-pay status for an entire pay period, no withholding will be made to cover the pay period from future earnings.

In the case of an employee who is in a non-pay status during only part of the pay period and the salary is not sufficient to cover the full withholding, no deduction shall be made.

The City shall promptly pay to the designated payee all sums so deducted.

19.6 Reports

The City shall provide biannually a list of all SEIU-represented employees making charitable deductions pursuant to a religious or ~~personal~~ exemption as described herein.

19.7 Financial Reports

The Union shall annually submit copies of a financial report similar to that required by the Labor-Management Disclosure Act of 1959, to the City's Department of Human Resources. Copies of such reports shall be available to employees, subject to the Agency Shop requirements of this Section, at the offices of the Union.

Failure to file such a report within sixty (60) days of the close of the Union's fiscal year shall result in the termination of all agency fee deductions, without jeopardy to any employee, until such report is filed.

19.8 Hold Harmless

The Union shall indemnify and hold harmless the City, its officers, and employees from any and all claims, demands, suits, or any other action arising from the Agency Shop provisions herein. In no event shall the City be required to pay from its own funds Union dues, service fees or charitable contributions which the employee was obligated to pay, but failed to pay, regardless of the reason(s).

19.9 Job Announcements

Job announcements for positions covered by this Agreement will incorporate the requirements of this Article as a condition of employment.

19.10 Enforcement

Nothing herein shall require the City to take disciplinary action against any employee who fails to comply with the provisions of this Article.

Dated as of March __, 2001.